

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re POLYURETHANE FOAM ANTITRUST
LITIGATION

This document relates to:

All Direct and Indirect Purchaser Class Cases

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) MDL Docket No. 2196

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) Index No. 10MD2196(JZ)

**MEMORANDUM OF LAW IN SUPPORT OF CERTAIN DEFENDANTS' RESPONSE
TO AND REQUEST FOR STAY OF DIRECT AND INDIRECT PURCHASERS'
MOTIONS FOR PRELIMINARY APPROVAL OF SETTLEMENT**

Direct and Indirect Purchaser Class Plaintiffs have moved for voluntary dismissals of their claims against, and preliminary approval of settlement agreements with, Defendants Domfoam International Inc., Valle Foam Industries (1995) Inc., A-Z Sponge & Foam Products Ltd., and certain individual settling parties. *See* ECF Nos. 343–44. Defendants¹ object to and oppose Plaintiffs' motions for the reasons previously stated in the November 14, 2011 Memorandum of Law in Support of Certain Defendants' Response and Request for Stay of Direct Purchasers' Motion for Preliminary Approval of Settlement, ECF No. 301, and respectfully urge the Court to defer consideration of any proposed settlement classes, including sending notice to "potential class members," until such time as it addresses the adversarial litigation class issues pursuant to the timetable proposed in the recently filed Stipulation and Proposed Joint Scheduling Order, ECF No. 345.

¹ Defendants Carpenter Co., E.R. Carpenter, L.P., Carpenter Holdings, Inc., Hickory Springs Manufacturing Company, Future Foam, Inc., Leggett & Platt, Incorporated, Otto Bock Polyurethane Technologies, Inc., Flexible Foam Products, Inc., Foamex Innovations, Inc., Mohawk Industries, Inc., Woodbridge Foam Corporation, Woodbridge Sales & Engineering, Inc., and Woodbridge Foam Fabricating, Inc. join this Response and Request for Stay.

Defendants further note that the language in paragraph 11 of both Settlement Agreements prohibits Plaintiffs from disclosing any information obtained from Voluntary Dismissal Defendants and Individual Settling Parties (as those terms are defined in the Settlement Agreements) to Defendants “unless compelled to do so by an Order of the Court or as otherwise required by law or the Federal Rules of Civil Procedure.” ECF Nos. 343-2 at 23 & 344-2 at 23. In the Court’s February 10, 2012 conference with the parties, Defendants understood the Court to order Plaintiffs to produce all such materials to Defendants or to the Court for *in camera* review with notice to Defendants. If Defendants have misunderstood the Court’s order, Defendants respectfully ask the Court to issue an Order to ensure that all materials obtained by Plaintiffs from the Voluntary Dismissal Defendants and Individual Settling Parties are promptly produced to Defendants or to the Court for *in camera* review with notice to the Defendants.

Dated: March 21, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2012, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

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